

March 28, 2019 Planning Board/Board of Adjustment Minutes

Mr. Ford called the Meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m.

Members Present: Mr. Mazza, Mr. Stothoff, Mr. Nace, Mr. Eschbach, Mr. Kastrud, Mr. Neary, Mr. Dix, Mr. Kirkpatrick, Mr. Ford

Board Professionals Present: Atty. Mark Anderson, Robert Clerico, Andrea Malcolm

Members Absent: Mr. Pettitt

Others Present:

Fallone: Atty. Jolanta Maziarz, Robert Fallone, Planner Paul Grygiel

Quick Chek: Atty. William Mennen, Engineer Robert Streker, Oliver Young

Open Public Meetings Act Notice: I would like to have placed in the minutes that the Open Public Meeting Requirements of Law have been satisfied by our notices dated January 17, 2019, as published in the Hunterdon County Democrat and January 16, 2019, as published in the Courier News. A copy of the notice has also been posted on the Township Website, the Bulletin Board in the Municipal Building and a copy has been filed with the Municipal Clerk.

Approval of Minutes: Mr. Kirkpatrick made a motion to approve the minutes of the January 10, 2019 meeting. Mr. Nace seconded the motion.

Vote: Ayes: Mr. Kirkpatrick, Mr. Nace, Mr. Mazza, Mr. Stothoff, Mr. Eschbach, Mr. Kastrud, Mr. Dix, Mr. Ford

Abstain: Mr. Neary

Mr. Ford announced a change in the Agenda order. He said Quik Chek Corporation would be heard after the Issues of Completeness. At approximately 9:30 p.m., the Fallone Group application would then be heard.

Issue of Completeness:

- 1. Pilot Travel Centers LLC: Block 11, Lot 24.03, 66 State Highway 173 West: Use Variance & Final Site Plan:** Atty. James Lott was present on behalf of applicant. Mr. Ford said Mr. Clerico recommended the application be deemed complete, granting a conditional waiver for a sealed survey and temporary waivers for a landscaping plan and the Environmental Impact Statement.

Motion: Mr. Kirkpatrick made a motion to deem the application complete as recommended by Mr. Clerico. Mr. Eschbach seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

The Hearing was tentatively set for April 11, 2019.

- 2. Dattoma: Block 25, Lo 37.03, 74 Perryville Road: Variance:** Mr. Clerico recommended the application be deemed incomplete.

Motion: Mr. Kirkpatrick made a motion to deem the application incomplete as recommended by Mr. Clerico. Mr. Nace seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Mr. Ford said the Board would be holding an Executive Session to discuss the Fallon matter. Atty. Anderson said it was appropriate for the Board to discuss the matter with their Attorney. The Open Public Meetings Act requires the time, date, place and circumstances under which the Closed Session minutes would be released. He said the time of their release would be determined at a later date.

Fallone Group LLC: Robert Fallon asked that the record reflect his objection to the Board going into Executive Session. Atty. Anderson said there was no basis for the objection. Mr. Fallon asked if it was possible to record the Session so that a third party could review it. Mr. Anderson said that would not be possible.

Mr. Ford asked for a motion to go into Executive Session.

Motion: Mr. Eschbach made the motion. It was seconded by Mr. Kirkpatrick.

Vote: All Ayes, No Nays, Motion Carried

Mr. Ford announced that the Board and their Professionals would be convening downstairs in order that the Public would not have to vacate the room. Atty. Anderson reiterated the purpose of the discussion was Attorney/Client privilege for him to provide his legal opinion to the Board.

A Resolution providing for a meeting Not Open to the Public in Accordance with the Provisions of the N.J. Open Public Meetings Act N.J.S.A. 10:4-12.

WHEREAS, the Planning Board of the Township of Union is subject to the Open Public Meetings Act, N.J.S.A. 10:A4-6, et seq, and

WHEREAS, The Open Public Meetings Act, N.J.S.A. 10:4-12, provides that an Executive Session, not Open to the Public, may be held for certain specified purposes when authorized by Resolution, and

WHEREAS, it is necessary for the Planning Board of the Township of Union to discuss in a Session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b and designated below:

Matters within the Attorney/Client exception: Legal issues pertaining to Block 22, Lot 34 Perryville Road.

Now, therefore, be it resolved by the Planning Board of the Township of Union assembled in Public Session on March 28, 2019, at 7:12 p.m., in the Union Township Municipal Building, 140 Perryville Road, Hampton, NJ, 08827 for the discussion of matters relating to the specific item designated above.

It is anticipated the deliberations conducted in closed session may be disclosed to the public upon determination by the Planning Board that the public interest will no longer be served by such confidentiality.

The Executive Session ended at 7:30 p.m.

Mr. Ford read into the record a letter that was sent to the Board secretary by Atty. Steven Warner via-e-mail: Pursuant to my voicemail message to you earlier today, this will memorialize that, on behalf of our client (1) we request an adjournment of the above matter (Fallone Group LLC) from tonight until the regularly scheduled meeting on April 11, 2019 and (2) assuming the granting of the adjournment request accordingly without our having to appear to request same on the record tonight, we will grant an extension of the time for the Board to act from tonight through that same date, April 11, 2019.

Mr. Ford asked Atty. Anderson to explain the implications of the request. Mr. Anderson emphasized that tonight is the time for the Board to make a decision. Mr. Kirkpatrick said he was glad applicant requested an extension since there are so many deficiencies in the application.

Mr. Ford asked for a motion to carry the matter to April 11, 2019 with no further notice required. Applicant agreed to an extension of time to act.

Motion: Mr. Eschbach made the motion to carry the matter to April 11, 2019, no further notice required. Mr. Kastrud seconded the motion.

Vote: Ayes: Mr. Eschbach, Mr. Kastrud, Mr. Nace, Mr. Neary, Mr. Dix, Mr. Kirkpatrick, Mr. Ford

Atty. Anderson apprised the Public that no further notice would be provided.

Public Hearing continued, Quick Chek Corporation, Block 22, Lots 39, 40 & 41, 170 & 172 Perryville Road: Preliminary & Final Major Site Plan, Minor Subdivision & Use & Bulk Variance: Atty. William Mennen gave a brief overview of the application. He said the building design and signage has been changed, the commercial and residential drives have been split apart, the left-turn movement on Frontage Road has been removed and the lot line has been shifted closer to the residential property adding additional area to the Quick Chek lot. There will be less relief required for impervious coverage and the building coverage variance will be removed. Mr. Mennen said applicant has redone traffic counts.

Atty. Mennen asked that Engineer Robert Streker provide testimony. He had been sworn previously. Mr. Streker displayed a Colored Version of the Overall Site Plan, revised March 6, 2019. It was marked Exhibit A-16. A copy of Sheet 4 of the Plan was marked Exhibit A-17. Mr. Streker explained changes shown on those Exhibits. He said the building footprint increased to 5,699 sf. The residential lot will have no improvements.

Atty. Mennen asked if there were questions pertaining to the changes. Mr. Kirkpatrick asked how much impervious coverage would be required if there was a single use. Mr. Streker said the number would be approximately 50,000 square feet (sf) and would not comply fully with the Ordinance. Mr. Kirkpatrick asked if Quick Chek had stand-alone stores. Mr. Streker said "They do". He did not believe removing the gas pumps would eliminate the impervious surface variance. Mr. Kastrud asked if the home were removed would that impact the impervious surface. Mr. Streker said he would run that calculation while the traffic engineer was giving testimony. Mr. Kastrud asked if fuel delivery vehicles could get through

the site with no left turn onto Frontage. Mr. Streker said the circulation patterns remain unchanged and the site is sized appropriately for those vehicles to utilize Perryville or Frontage Road driveways. Mr. Nace asked if it was necessary to have the entrance from Frontage Road going west. Mr. Streker said "It's convenient". Mr. Nace asked about decreasing the driveway width to reduce impervious coverage. Mr. Streker said the driveway complies with NJDOT criteria. Mr. Clerico asked about the new driveway and NJDOT approval. Mr. Streker said the Traffic Engineer could speak to that better. Mr. Clerico also asked if the westbound left entrance movement was available on the Bagel Smith facility. Mr. Streker said it was not.

Mr. Ford asked if consideration had been given to rotating the building, at least the location of the loading dock to face the east rather than south. Mr. Streker said that was a suggestion of the Planner. Mr. Streker said there was significant buffering between the residential lot and the commercial development. Mr. Slaugh said if the building were rotated 90 degrees the front of the building would face Perryville Road. He asked Mr. Streker if the company found it beneficial to have the front door and gas pumps opposite each other. Mr. Streker said "Yes". It was a matter of visibility from the fueling operations to the retail area. Mr. Ford asked about entrances to the building for the Public. Mr. Streker said on the north side, the bump out, there are entrances on either side. A loading door is on the south side of the building and there is no door facing north. Mr. Slaugh asked if the design was to have parking spaces in close proximity to the building entrance. Mr. Streker said "Yes".

Mr. Kirkpatrick asked if there was a single use on the site, could the building be rotated 90 degrees. Mr. Streker said "Sure, but that is not what is proposed". Mr. Slaugh referenced the east side of the site that is up-slope from the rest of the development. Applicant proposes flattening the area for the building, parking and gasoline pumps. He said if the building were rotated, the rear would be facing an up-slope and would not be seen. Mr. Streker agreed. Mr. Slaugh asked about buffering to screen the south side of the building. Mr. Streker said applicant proposes significant buffering that includes deciduous, evergreen and ornamental species. He also said applicant proposes a six-foot opaque board on board fence along the southerly property line.

Mr. Ford asked Mr. Clerico for questions. He had none. Atty. Anderson asked about customer parking. Mr. Streker said the majority of parking would be to the side of the building where the doors are located.

Mr. Ford asked for questions from the Public. There were none.

Mr. Ford said the Board should review reports from the Engineer, Planner and Traffic Engineer. Mr. Clerico referenced the proposed minor subdivision and the process prior to recording of deeds, including the demolition of existing features and the possibility of creating nonconforming uses on the property. Atty. Mennen indicated he felt the applicant would be amenable to working with the Board's Counsel regarding the interim nonconforming use issue. Atty. Anderson said applicant could post a bond. Mr. Clerico mentioned the Minor Subdivision Checklist requesting the location of the well and septic. He thought documentation should be provided regarding the functioning of those facilities. Mr. Streker said the septic system is functioning and the owner does not want to perform any tests. Mr.

Clerico said if the Board needs that information, someone other than the owner might have to provide it. He said Hunterdon County Health Department and NJDOT approval are required.

Mr. Clerico asked why the left-turn movements entering the site from westbound Frontage Road were necessary. Mr. Streker said it offered an opportunity to access the site directly as opposed to going through the Perryville Road Intersection. Mr. Kirkpatrick understood the purpose of the left-turn movement was for customer convenience and reduction of trips through the intersection. Mr. Streker said vehicles turning left would not need to go through the intersection. Mr. Clerico mentioned enforcement could be an issue and thought extending the island would be a good idea. Mr. Ford indicated the Board should discuss the left turn since he thought it is beneficial to residents.

Mr. Clerico said consideration should be given to speed bumps or other traffic control devices. Mr. Streker said Quick Chek objects to them because of maintenance issues. Traffic Engineer Lublanecki recommended one set of speed bumps on the south side of the site. Mr. Streker said applicant would work with the Board; however, he reiterated Quick Chek's objection. Mr. Clerico said applicant had eliminated the separate independent loop.

Mr. Streker displayed a colorized version of Sheet 29, WB50 Truck Turning Plan that was marked Exhibit A-18 and a colorized version of Sheet 30, SU30 Truck Turning Plan that was marked Exhibit A-19. Mr. Streker said A-18 shows a tractor-trailer making a left-hand turn into the site off Perryville Road, circulating through the site and subsequently exiting out to Frontage Road. Mr. Streker said A-19 shows a similar pattern for trash pickup or box truck deliveries. Mr. Clerico said the only way large vehicles could exit the site is to go eastbound to Frontage Road. Mr. Streker said that would not be the only way, a vehicle could exit onto Perryville Road.

Mr. Clerico asked for testimony regarding the location of driveways and their relation to driveways for facilities on the opposite side. Mr. Streker said Mr. Seckler testified to that earlier. Mr. Clerico said the Board could ask for more testimony if they felt the need. Mr. Clerico noted the existing driveway that is now located on the Quick Chek lot would require an easement that will benefit the owner of the residential lot. Mr. Clerico referenced Lot 39 not having a driveway with access to a public street. Mr. Streker said applicant's Planner would provide justification. Mr. Kirkpatrick asked Mr. Clerico if he wanted testimony showing why the lot line could not be adjusted so the driveway was entirely on the residential lot. Mr. Clerico pointed out that by reducing the size of the residential lot there is no access to Frontage Road. Mr. Kirkpatrick asked why the lot line needed to be where it is and could it not be adjusted so the driveway was wholly included on the remaining residential lot. Mr. Clerico said it could be angled. Mr. Slaugh said it would increase impervious surface. Mr. Streker indicated that might be considered and he would look into the issue. Mr. Slaugh mentioned the basin. Mr. Streker said the septic field location needs to be considered. Atty. Anderson raised a concern about the proposal for a subdivision and site plan that creates a nonconforming situation. He said there is sufficient acreage to create two conforming lots and the Quick Chek Lot would not require an impervious coverage variance. Atty. Mennen said that testimony should be left for the Planner, whether it would be a hardship variance or otherwise. Mr. Anderson said it is self-created. Mr. Mennen indicated the Planner's presentation would not rely upon a hardship variance.

Mr. Clerico asked about the likelihood of applicant obtaining NJDOT Permits, since the Board action would be conditioned on applicant obtaining those permits. Mr. Clerico referenced deed restrictions that are required, left-turn movement, parking, loading, impervious coverage and oversized vehicle parking since applicant is providing more standard spaces than required by the Ordinance. Mr. Kirkpatrick recalled that the proposed oversized parking stalls on the west side of the building were removed. Mr. Streker said the striped loading area on the north side of the property is for oversized vehicles. Mr. Clerico addressed traffic circulation and appropriate signage. He mentioned stop bars and lines in the middle of the pavement not controlled by curbs or islands. Mr. Clerico said it was recommended to add islands by the corners around the building and that has been provided; however, stop signs were not. The area around the gas station islands was not addressed. Mr. Streker spoke to the issues of striping northeast of the gas canopy and the area in the southeast corner of the building. He did not see a need for a stop bar in the southeast or northeast corners. Mr. Clerico deferred to the Traffic Engineer. Mr. Lublanecki concurred with Mr. Streker.

Mr. Clerico said Chief Van Fossen, Pattenburg Volunteer Fire Company, indicated the layout was fine. Mr. Clerico said the Rescue Squad should also review the Plan. His concern was circulation of their vehicles. Mr. Clerico understood details of the ADA ramps would be a condition of approval. A decorative aluminum steel fence in the proximity of the detention basin along Perryville Road is proposed. Mr. Slaugh said he would comment on the fence later.

Mr. Clerico referenced earthwork. He said there has been a slight reduction in the soil removed; however, there will be a significant impact with the proposed 1,900 to 2,500 truckloads. Mr. Clerico asked for a written narrative explaining applicant's proposal regarding the soil removal. He said the Board could make that a condition of approval. Mr. Streker said if approval is granted, applicant and the contractor could coordinate with the NJ State Police and Mr. Clerico's office on how to address the issue.

Mr. Nace asked about blasting. Mr. Streker said a geotechnical investigation revealed rock on the site that is highly fractured weathered shale. Mr. Streker is confident blasting will not be necessary. Mr. Clerico raised a concern about contaminated soils. Mr. Streker said procedures are in place with an environmental consultant. Before leaving the site, the soil is screened, tested and compared with NJDEP criteria for reuse on the property or before exporting. Mr. Clerico referenced steep slopes. Applicant provided calculations that Mr. Clerico needs additional time to review. He said the issue with the berm has been resolved since all improvements are now on the commercial development lot. Mr. Clerico said easements would be required as per storm water rules. Mr. Clerico requested information relating to products used on the property and their ability to function. He asked for more information which applicant agreed to provide.

Mr. Clerico had a question about the septic system. He said someone needs to address the collection system since it is underneath roads in the loading area and should be sized in dimension and stability. Mr. Kirkpatrick asked about the septic pipe intersecting with a storm water pipe. Mr. Clerico did not recall underground lines in that area. Mr. Streker said the two plans would be coordinated.

Mr. Clerico mentioned the Will Serve Letter from Clinton would need to be updated. Mr. Streker said that will be provided. Mr. Clerico said applicant stated they have work orders with JCP&L for connections. Mr. Clerico said the Planner would address lighting and landscaping comments.

Mr. Clerico asked about comments from UTEC on the Environmental Impact Statement (E.I.S.). Mr. Ford said UTEC had provided a letter with their comments.

Mr. Clerico said a Recertified Soil Erosion Plan was required. Construction details would be forthcoming. Outside agency approvals, including the Hunterdon County Planning Board and Health Departments, Township Committee (Treatment Works Approval) and Township Board of Health are required. Mr. Streker said Mr. Seckler should address NJDOT aspects.

Mr. Ford asked Mr. Slaugh for comments regarding planning issues. Mr. Slaugh mentioned the variance relief for structures and asked Mr. Streker if they could be relocated out of the yard setbacks. Mr. Streker explained the rationale for the location. Mr. Slaugh referenced parking spaces. Mr. Streker said Quick Chek felt parking was appropriate for the operation. Mr. Slaugh thought the Board should discuss that issue. Atty. Mennen said the Quick Chek representative had cited what level of parking was appropriate and convenient for their customer base. Mr. Slaugh said the Ordinance might not be correct as it relates to Accessible Parking Spaces since applicant's proposed eight and eleven-foot width meets State Requirements. He said the issue was a technical design exception. Mr. Slaugh said the driveway access for Lot 39 remains an outstanding item.

Mr. Slaugh thought the proposed loading area was accessible and appropriate. He next referenced the tree planting design and indicated where trees should be located. Mr. Slaugh suggested split rail fencing; however, that was a Board decision. Mr. Kirkpatrick asked about fencing shown on the site rendering. Mr. Streker said applicant would update the rendering if the Board requires it. He said applicant prefers steel fencing because of its durability. Mr. Slaugh asked about the height of the berm on Lot 39 and would it provide privacy from the Quick Chek operation.

Mr. Slaugh referred to the lighting plan. He suggested that the foot-candle average be in the low 20's. Mr. Streker thought the lighting proposed was appropriate and is a higher quality and design than across the street. Mr. Slaugh said that would be for the Board to consider. Quick Chek is a twenty-four hour operation and therefore lights would only be off during daytime hours.

Mr. Slaugh referenced the sign variances. Mr. Streker said one of the gas canopy signs was eliminated and a second building-mounted 104.3 sf sign is proposed. Those signs will be on the west and north elevations of the convenience store. Mr. Slaugh said the directional signs with the Quick Chek logo would require a variance. Mr. Streker said the signs are necessary to guide motorists. Mr. Slaugh said there is a limitation on the illumination of the signs. The lumens per square foot (45 to 70) permitted by the Ordinance was discussed. Mr. Kirkpatrick recalled there was strong opposition to internally illuminated signs. Mr. Slaugh said the Ordinance requires externally illuminated signage. Consideration could be given to a design exception.

Mr. Ford asked for questions from the Public. Steve Perdue, 6 Deer Run, asked about testimony related to the septic design. Mr. Streker said the design is being reviewed by the Hunterdon County Health Department. Mr. Kirkpatrick told Mr. Perdue he could review the design at Hunterdon County. He also said and the Township Health Department would be reviewing the design. Mr. Perdue noted it was close to triggering a Pollution Discharge Elimination System Permit. Mr. Streker said calculations were prepared by the septic designer. Mr. Clerico suggested Mr. Perdue write a letter to the County with his concerns. Mr. Perdue also asked about the driveway for the residential use (Lot 39) that utilizes a portion of Lot 41 to access Frontage Road. He asked if that would require a use variance. Mr. Slauch said "Not normally", because Lot 39 is a less intense use than the commercial property.

Mr. Ford asked for questions for the Engineer. Mr. Clerico asked about widening the narrow section of Frontage Road. Mr. Streker said Mr. Seckler provided testimony previously. Mr. Streker said widening the Road would probably impact traffic signalization in the area and applicant does not feel it is warranted. Mr. Clerico said that is in the State's jurisdiction. Mr. Ford said there is a concern about tractor trailers parking off to the side of the road to access Quick Chek.

Mr. Ford asked Atty. Mennen about testimony from another professional. Mr. Mennen said the Architect would probably need five minutes. Mr. Ford announced a brief recess.

Mr. Ford told Atty. Mennen to proceed.

Atty. Mennen presented Oliver Young. Mr. Young acknowledged he remained under oath. He displayed a new architectural design that was marked Exhibit A-20. Mr. Young said the new design is based on feedback from the Board and their Professionals regarding the Perryville Inn. He provided details of the changes. Mr. Young also displayed a Material Sample Board that was marked Exhibit A-21.

Mr. Ford revisited the loading dock issue and it not being the back of the building. His concern was the appearance to Township residents and failure to provide some resemblance to the Historic Perryville Inn. Mr. Dix mentioned extending the base wall with brick and planting a flowerbed across the back. Mr. Young indicated he would speak with the civil engineer and Quik Chek regarding changes. Mr. Slauch mentioned the possibility of a watercourse and the proposed soldier course. Mr. Young said he would review the soldier course for possible changes.

Mr. Kastrud noted the loading dock wall that he considered industrial looking. He thought fake windows might be preferable. Mr. Kirkpatrick cited his colleague's comment about the industrial appearance of the building and asked for testimony regarding how the design contributes to the rural and agricultural heritage of Union Township. Mr. Young did not consider the building to look industrial. Mr. Kirkpatrick asked Mr. Young what type of building you would normally see in a rural setting, gable or flat pitched roof. Mr. Young said at the time the Perryville Inn was built most roofs were pitched. He also said a significant portion of the roof would have to be flat because of HVAC equipment and a roof ladder.

Mr. Kirkpatrick understood the size of the building might affect having a pitched roof. Mr. Young replied "Yes, the overall size". Mr. Kirkpatrick asked how big a dairy barn would be. Mr. Young did not know.

Mr. Ford asked for questions from Messrs. Clerico and Slaugh. Mr. Slaugh referenced the dairy barn mentioning that convenience stores often started out as dairy barns and they had gambrel roofs. He said that is not what Quick Chek is proposing. Mr. Kirkpatrick emphasized the requirement of the MP for development to contribute to the rural and agriculture heritage of Union Township. Mr. Slaugh did not see a connection, unless it was selling milk. Mr. Dix said the Quick Chek in Lafayette was built like a barn. He asked if applicant would investigate that possibility. Mr. Young recalled that was dictated by the Historic Preservation Commission or Ordinance of that Municipality and applicant had no choice. Mr. Kirkpatrick asked how that would differ from Union township's MP requiring the building to be compatible with a rural and agricultural heritage. Mr. Young said he would review that project but it was not language regarding rural or agriculture heritage, it was specific to pitch-typed roofs or multiple levels. He also said he does not believe it works for Quick Chek.

Mr. Ford invited questions from the Public for Mr. Young. There were none.

Mr. Ford said it would be a good point to adjourn. Atty. Mennen said "Yes". The date to carry the Hearing was discussed at length and it was decided the date to be April 11, 2019. Mr. Ford asked for a motion to that effect, with no further notice required.

Motion: A motion to extend the Quick Chek Hearing until April 11, 2019, with no additional notice required was made by Mr. Kirkpatrick. The motion was seconded by Mr. Eschbach.

Vote: All Ayes, No Nays, Motion Carried

Mr. Ford asked if anyone from the public wanted to make any general comment. A resident asked if there was an ordinance regulating the distance from a fueling station to a residential home. He cited EPA Guidelines recommending that a fueling station not be located within one-thousand feet of a school. He wanted to know if that would pertain to this application or does the distance to the school have to be looked into. Mr. Kirkpatrick said he was not aware of any provision in our Ordinance requiring a setback between a residential area and a fueling station. The resident said other towns have ordinances regarding distance between a residential structure and a fueling station.

Motion to Adjourn: Mr. Kirkpatrick made a motion to adjourn at 9:58 p.m. Mr. Neary seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Grace A. Kocher, Secretary